

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 19

SENATE BILL 1062

AN ACT

AMENDING SECTION 36-136, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT
OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 36-136, Arizona Revised Statutes, is amended to
3 read:

4 36-136. Powers and duties of director; compensation of
5 personnel

6 A. The director shall:

7 1. Be the executive officer of the department of health services and
8 the state registrar of vital statistics but shall NOT receive no compensation
9 for services as registrar.

10 2. Perform all duties necessary to carry out the functions and
11 responsibilities of the department.

12 3. Prescribe the organization of the department. The director shall
13 appoint or remove such personnel considered necessary for the efficient work
14 of the department and shall prescribe the duties of all personnel. The
15 director may abolish any office or position in the department that the
16 director believes is unnecessary.

17 4. Administer and enforce the laws relating to health and sanitation
18 and the rules of the department.

19 5. Provide for the examination of any premises if the director has
20 reasonable cause to believe that on the premises there exists a violation of
21 any health law or rule of the state.

22 6. Exercise general supervision over all matters relating to
23 sanitation and health throughout the state. When in the opinion of the
24 director it is necessary or advisable, a sanitary survey of the whole or of
25 any part of the state shall be made. The director may enter upon, examine
26 and survey any source and means of water supply, sewage disposal plant,
27 sewerage system, prison, public or private place of detention, asylum,
28 hospital, school, public building, private institution, factory, workshop,
29 tenement, public washroom, public rest room, public toilet and toilet
30 facility, public eating room and restaurant, dairy, milk plant or food
31 manufacturing or processing plant, and any premises in which the director has
32 reason to believe there exists a violation of any health law or rule of the
33 state which the director has the duty to administer.

34 7. Prepare sanitary and public health rules.

35 8. Perform other duties prescribed by law.

36 B. If the director has reasonable cause to believe that there exists
37 a violation of any health law or rule of the state, the director may ~~make an~~
38 ~~inspection of~~ INSPECT any person or property in transportation through the
39 state, and of any car, boat, train, trailer, airplane or other vehicle in
40 which such person or property is transported, and may enforce detention or
41 disinfection as reasonably necessary for the public health if there exists
42 a violation of any health law or rule.

43 C. The director may deputize, in writing, any qualified officer or
44 employee in the department to do or perform ~~in~~ ON the director's stead BEHALF

1 any act the director is by law empowered to do or charged with the
2 responsibility of doing.

3 D. The director may delegate to a local health department or public
4 health services district any functions, powers or duties which THAT the
5 director believes can be competently, efficiently and properly performed by
6 the health department or public health services district if:

7 1. The director or superintendent of the local health agency or public
8 health services district is willing to accept such THE delegation and agrees
9 to perform or exercise the functions, powers and duties conferred in
10 accordance with the standards of performance established by the director.

11 2. Funds MONIES appropriated or otherwise made available to the
12 department for distribution to or division among counties or public health
13 services districts for local health work may be allocated or reallocated in
14 a manner designed to assure the accomplishment of recognized local public
15 health activities and delegated functions, powers and duties in accordance
16 with applicable standards of performance. Whenever in the director's opinion
17 there is cause, the director may terminate all or a part of any such
18 delegation and may reallocate all or a part of any funds that may have been
19 conditioned upon ON the further performance of the functions, powers or
20 duties conferred.

21 E. The compensation of all personnel shall be as determined pursuant
22 to section 38-611.

23 F. The director may make and amend rules necessary for the proper
24 administration and enforcement of the laws relating to the public health.

25 G. Notwithstanding subsection H, paragraph 1 of this section, the
26 director may define and prescribe emergency measures for detecting,
27 reporting, preventing and controlling new communicable or infectious diseases
28 or conditions if he THE DIRECTOR has reasonable cause to believe that a
29 serious threat to public health and welfare exists ~~and that the communicable~~
30 ~~disease advisory council established in section 36-136.03 has reviewed and~~
31 ~~approved the emergency measure.~~ Emergency measures are effective for no
32 longer than eighteen months.

33 H. The director shall, by rule:

34 1. Define and prescribe reasonably necessary measures for detecting,
35 reporting, preventing and controlling communicable and preventable diseases.
36 The rules shall declare certain diseases reportable and shall further
37 establish minimum periods of isolation or quarantine and procedures and
38 measures to institute isolation or quarantine, including the right to a
39 hearing. The rules shall allow the director to institute isolation or
40 quarantine before the completion of a hearing if he THE DIRECTOR determines
41 that clear and convincing evidence exists that a person poses a substantial
42 danger to another person or the community. The rules shall prescribe
43 measures reasonably required to prevent the occurrence of, or to seek early
44 detection and alleviation of, disability, insofar as possible, from

1 communicable or preventable diseases. The rules shall include reasonably
2 necessary measures to control animal diseases transmittable to man HUMANS.

3 2. Define and prescribe reasonably necessary measures, in addition to
4 those prescribed by law, regarding the preparation, embalming, cremation,
5 interment, disinterment and transportation of dead human bodies and the
6 conduct of funerals, relating to and restricted to communicable diseases and
7 regarding the removal, transportation, cremation, interment or disinterment
8 of any dead human body.

9 3. Define and prescribe reasonably necessary procedures not
10 inconsistent with law in regard to the use and accessibility of vital
11 records, delayed birth registration and the completion, change and amendment
12 of vital records.

13 4. Except as relating to the beneficial use of wildlife meat by public
14 institutions and charitable organizations pursuant to title 17, prescribe
15 reasonably necessary measures to assure that all food, including meat and
16 meat products sold at the retail level, or drink, other than milk and milk
17 products, sold or distributed for human consumption is free from unwholesome,
18 poisonous or other foreign substances and filth, insects or disease-causing
19 organisms. The rules shall prescribe reasonably necessary measures governing
20 the production, processing, labeling, storing, handling, serving and
21 transportation of such food and drink. The rules shall prescribe minimum
22 standards for the sanitary facilities and conditions which shall be
23 maintained in any plant, other than a meat packing plant, slaughterhouse or
24 wholesale meat processing plant, and in any warehouse, restaurant or other
25 premises and in any truck or other vehicle in which food or drink is
26 produced, processed, stored, handled, served or transported. The rules shall
27 provide for the inspection and licensing of premises and vehicles so used,
28 and for abatement as public nuisances of any premises or vehicles which do
29 not comply with the rules and minimum standards.

30 5. Prescribe reasonably necessary measures to assure that all meat and
31 meat products for human consumption handled at the retail level are delivered
32 in a manner and from sources approved by the Arizona department of
33 agriculture and are free from unwholesome, poisonous or other foreign
34 substances and filth, insects or disease-causing organisms. The rules shall
35 prescribe standards for sanitary facilities to be used in identity, storage,
36 handling and sale of all meat and meat products sold at the retail level.

37 6. Prescribe reasonably necessary measures regarding production,
38 processing, labeling, handling, serving and transportation of bottled water
39 to assure that all bottled drinking water distributed for human consumption
40 is free from unwholesome, poisonous, deleterious or other foreign substances
41 and filth or disease-causing organisms. The rules shall prescribe minimum
42 standards for the sanitary facilities and conditions which shall be
43 maintained at any source of water, bottling plant and truck or vehicle in
44 which bottled water is produced, processed, stored or transported and shall
45 provide for inspection and certification of bottled drinking water sources,

1 plants, processes and transportation and for abatement as a public nuisance
2 of any water supply, label, premises, equipment, process or vehicle which
3 does not comply with the minimum standards. The rules shall prescribe
4 minimum standards for bacteriological, physical and chemical quality for
5 bottled water and for the submission of samples at intervals prescribed in
6 the standards.

7 7. Define and prescribe reasonably necessary measures governing ice
8 production, handling, storing and distribution to assure that all ice sold
9 or distributed for human consumption or for the preservation or storage of
10 food for human consumption is free from unwholesome, poisonous, deleterious
11 or other foreign substances and filth or disease-causing organisms. The
12 rules shall prescribe minimum standards for the sanitary facilities and
13 conditions and the quality of ice which shall be maintained at any ice plant,
14 storage and truck or vehicle in which ice is produced, stored, handled or
15 transported, and shall provide for inspection and licensing of the premises
16 and vehicles, and for abatement as public nuisances of ice, premises,
17 equipment, processes or vehicles which do not comply with the minimum
18 standards.

19 8. Define and prescribe reasonably necessary measures concerning
20 sewage and excreta disposal, garbage and trash collection, storage and
21 disposal, and water supply for recreational and summer camps, campgrounds,
22 motels, tourist courts, trailer coach parks and hotels. The rules shall
23 prescribe minimum standards for preparation of food in community kitchens,
24 adequacy of excreta disposal, garbage and trash collection, storage and
25 disposal and water supply for recreational and summer camps, campgrounds,
26 motels, tourist courts, trailer coach parks and hotels and shall provide for
27 inspection of such premises and for abatement as public nuisances of any
28 premises or facilities which do not comply with the rules.

29 9. Define and prescribe reasonably necessary measures concerning the
30 sewage and excreta disposal, garbage and trash collection, storage and
31 disposal, water supply and food preparation of all public schools. The rules
32 shall prescribe minimum standards for sanitary conditions which shall be
33 maintained in any public school and shall provide for inspection of such
34 premises and facilities and for abatement as public nuisances of any premises
35 which do not comply with the minimum standards.

36 10. Define and prescribe reasonably necessary measures regarding sewage
37 and excreta disposal, garbage and trash collection, storage and disposal,
38 water supply and food preparation for all workshops and other places of
39 employment. The rules shall prescribe minimum standards for sanitary
40 conditions and facilities at workshops and other places of employment and
41 shall provide for inspection of such premises and for abatement as public
42 nuisances of any premises and facilities which do not comply with the minimum
43 standards.

44 11. Prescribe reasonably necessary measures to prevent pollution of
45 water used in public or semipublic swimming pools and bathing places and to

1 prevent deleterious health conditions at such places. The rules shall
2 prescribe minimum standards for sanitary conditions which shall be maintained
3 at any public or semipublic swimming pool or bathing place and shall provide
4 for inspection of such premises and for abatement as public nuisances of any
5 premises and facilities which do not comply with the minimum standards. The
6 rules shall be developed in cooperation with the director of the department
7 of environmental quality and shall be consistent with the rules adopted by
8 the director of the department of environmental quality pursuant to section
9 49-104, subsection B, paragraph 12.

10 ~~12. Define and prescribe reasonably necessary measures regarding~~
11 ~~minimum standards for the sanitary conditions and facilities which shall be~~
12 ~~maintained in any public or semipublic building and shall provide for~~
13 ~~inspection of such premises and for abatement as public nuisances of any~~
14 ~~premises and facilities which do not comply with the minimum standards.~~

15 ~~13.~~ 12. Define and prescribe reasonably necessary sanitary measures
16 concerning sewage collection, treatment and disposal, putrescible waste
17 collection, storage and disposal and rubbish, trash and manure collection,
18 storage and disposal for all fertilizer manufacturing plants. The rules
19 shall prescribe minimum standards for the sanitary conditions and facilities
20 which shall be maintained at any such plant and shall provide for inspection
21 of such premises and for abatement as public nuisances of any premises and
22 facilities which do not comply with the minimum standards.

23 ~~14.~~ 13. Prescribe reasonably necessary measures to keep confidential
24 information relating to diagnostic findings and treatment of patients, as
25 well as information relating to contacts, suspects and associates of
26 communicable disease patients. In no event shall such confidential
27 information be made available for political or commercial purposes.

28 ~~15.~~ 14. Prescribe reasonably necessary measures regarding human
29 immunodeficiency virus testing as a means to control the transmission of that
30 virus, including the designation of anonymous test sites as dictated by
31 current epidemiologic and scientific evidence.

32 I. The rules adopted under the authority conferred by this section
33 shall be observed throughout the state and shall be enforced by each local
34 board of health or public health services district, but this section does not
35 limit the right of any local board of health or county board of supervisors
36 to adopt ordinances and rules as authorized by law within its jurisdiction,
37 provided that the ordinances and rules do not conflict with state law and are
38 equal to or more restrictive than the rules of the director.

39 J. The powers and duties prescribed by this section do not apply in
40 instances in which regulatory powers and duties relating to public health are
41 vested by the legislature in any other state board, commission, agency or
42 instrumentality, except that with regard to the regulation of meat and meat
43 products, the department of health services and the Arizona department of
44 agriculture within the area delegated to each shall adopt rules which are not
45 in conflict.

1 K. The director, in establishing fees authorized by this section,
2 shall comply with title 41, chapter 6. The department shall not set a fee
3 at more than the department's cost of providing the service for which the fee
4 is charged. State agencies are exempt from all fees imposed pursuant to this
5 section.

6 L. After consultation with the state superintendent of public
7 instruction, the director shall prescribe the criteria the department shall
8 use in deciding whether or not to notify a local school district that a pupil
9 in the district has tested positive for the human immunodeficiency virus
10 antibody. The director shall prescribe the procedure by which the department
11 shall notify a school district if, pursuant to these criteria, the department
12 determines that notification is warranted in a particular situation. This
13 procedure shall include a requirement that prior to notification the
14 department shall determine to its satisfaction that the district has an
15 appropriate policy relating to nondiscrimination of the infected pupil and
16 confidentiality of test results and that proper educational counseling has
17 been or will be provided to staff and pupils.

APPROVED BY THE GOVERNOR MARCH 22, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2001.

Passed the House March 15, 20 01,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Jake Flake

Speaker of the House
Pro Tempore

Spencer L. Moore

Chief Clerk of the House

Passed the Senate January 24, 20 01,

by the following vote: 27 Ayes,

2 Nays, 1 Not Voting

Rodan Anant

President of the Senate

Charmine Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19 day of March, 2001,

at 10:00 o'clock A M.

Sandra Ramirez

Secretary to the Governor

Approved this 22 day of

March, 2001,

at 4:25 o'clock P M.

Janice McHugh

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23rd day of March, 2001,

at 1:25 o'clock PM M.

Britney Bayless

Secretary of State

S.B. 1062